

BILL ANALYSIS

Senate Research Center

S.B. 1760
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Higher Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' economic future depends on an educated workforce. Today, 80 percent of high-growth, high-demand jobs require some education beyond high school. Texas must enroll a minimum of 430,000 additional students in public universities—an increase of more than 35 percent—just to keep up in the 21st century economy, according to the Texas Higher Education Coordinating Board. However, students are facing more obstacles than ever in trying to fund their postsecondary education. Students have become more reliant on loans compared to students in other states (61 percent in Texas rely on loans, compared to 49 percent of students in other states). The cost of higher education has risen dramatically in the last several years while financial aid has declined. Tuition at Texas public universities and colleges rose 112 percent from 2003 to 2007, and the gap between actual college costs and aid received by Texas students rose by 71 percent from 2001 to 2006.

Last session, the 80th Legislature authorized the Prepaid Higher Education Tuition Board to establish by rule a Save and Match program as part of the Texas Tuition Promise Fund (Section 54.7521, Education Code). Currently, the Save and Match program is limited to households below the state household median income (\$44,861). The program was not funded nor have any funds been contributed to the fund by outside sources.

As proposed, S.B. 1760 provides an incentive for low-income and middle-income families to start saving for a child's college education by expanding the current Texas Save and Match program. This bill also authorizes the Prepaid Higher Education Tuition Board to provide matching contributions to a savings plan.

[**Note:** While the statutory reference in this bill is to the Texas Department of Human Services (TDHS), the following amendments affect the Health and Human Services Commission, as the successor agency to TDHS.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Prepaid Higher Education Tuition Board is modified in SECTION 2 (Section 54.7521, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter H, Education Code, as follows:

Sec. 54.7521. DEFINITIONS. Defines "matching account" and "participating beneficiary." Makes nonsubstantive changes.

SECTION 2. Amends Section 54.7521, Education Code, as follows:

Sec. 54.7521. TEXAS SAVE AND MATCH PROGRAM. Provides that the Prepaid Higher Education Tuition Board (board) by rule is required to develop and implement the Texas Save and Match program under which money paid by a purchaser under a prepaid tuition contract or higher education savings plan, applicable to plans and programs under Subchapters F (Prepaid Higher Education Tuition Program), G (Higher Education Savings Plan), and H (Prepaid Tuition Unit Undergraduate Education Program: Texas Tomorrow Fund II) of this section, is authorized to be matched with contributions made by any person to the Texas Save and Match program and used to purchase additional

tuition units or savings plan contributions on behalf of beneficiaries selected as provided by board rule, and money appropriated by the legislature for the Texas Save and Match program and used to purchase additional tuition units or savings plan contributions on behalf of beneficiaries whose annual household income is below 400% of the Federal Poverty Level [the state median family income], adjusted for household size, whose enrollment in the program would, as determined by the board, promote the participation goals and targets of the most recent revision of "Closing the Gaps," the state's master plan for higher education; or who meet other criteria established by board rule.

SECTION 3. Amends Subchapter H, Education Code, by adding Sections 54.7522-54.7525, as follows:

Sec. 54.7522. **SAVE & MATCH PROGRAM RATIOS.** Requires the board, for those beneficiaries deemed eligible under Section 54.7521 of this subchapter, to develop a variable formula to match purchases based upon annual household income. Requires the board, depending on availability of funds, for each eligible dollar contributed to the prepaid tuition unit contract account or higher education savings plan, to match these contributions using the following guidelines: \$2, if the beneficiary's household adjusted income for the most recently completed tax year is less than or equal to 200 percent of the federal poverty level; \$1, if the beneficiary's household adjusted income for the most recently completed tax year is more than 200 percent of the federal poverty level but not more than 300 percent of the federal poverty level; or 50 cents, if the beneficiary's household adjusted income for the most recently completed tax year is more than 300 percent of the federal poverty level but not more than 400 percent of the federal poverty level.

Sec. 54.7523. **ADMINISTRATION OF MATCH ACCOUNT.** Provides that contributions made to the beneficiary's savings trust account or prepaid tuition contract are matched with grant funds to the beneficiary's matching account as provided by this section. Requires that a matching account opened on behalf of a beneficiary under this section be accounted separately from the beneficiary's traditional prepaid tuition unit balance or savings trust account balance. Requires that, to the extent possible, assets in match accounts be expended prior to redemption of tuition units or qualified withdrawal from the beneficiary's primary account. Provides that information relating to the beneficiary of a matching account established on behalf of the beneficiary under Section 54.717 [Note: The Education Code does not contain a Section 54.717.], including any personally identifiable information about the beneficiary, is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code. Requires the board, to the extent possible, to provide the matching account balance with the periodic account statement for each beneficiary participating in the program established under Section 54.7521.

Sec. 54.7524. **LIMITS ON PARTICIPATION.** (a) Requires a beneficiary, to be initially eligible to participate in the program, at the time a savings trust account is opened on the beneficiary's behalf, to be a resident of this state, or a dependent for purposes of Section 152, Internal Revenue Code of 1986, of a resident described by Paragraph A (regarding the requirement of the beneficiary being a resident of the state), be younger than seven years of age, and have a household adjusted gross income, for the most recently completed tax year, that is not more than 400 percent of the federal poverty level.

(b) Requires the board, to determine whether a beneficiary is initially eligible to participate in the program, to solicit from the individual who purchases tuition units or opens a savings trust account on the beneficiary's behalf under this subchapter, at the time the individual enters into a savings trust agreement with the board and in the manner prescribed by board rule, information necessary to determine the beneficiary's eligibility.

(c) Authorizes an eligible beneficiary to participate in the program for a time period not to exceed five years if the beneficiary continues to meet the eligibility criteria described by Subsection (d). Provides that the five-year period can be either consecutive or non-consecutive. Requires the board to prescribe

procedures for verifying a participating beneficiary's annual and continual eligibility under this section.

(d) Authorizes a participating beneficiary to receive a matching grant to the beneficiary's matching account in any particular calendar year only if at least \$100 is contributed to the beneficiary's savings trust account during that year. Provides that contributions to a beneficiary's savings trust account or prepaid tuition contract account in excess of \$500 in any calendar year are not eligible for a matching grant to the beneficiary's matching account.

(e) Requires that any funds in a matching account that are not withdrawn by the beneficiary's 30th birthday are forfeited and to be returned to the pool of matching funds maintained by the direct-support organization established to operate this section.

Sec. 54.7525. DEMONSTRATIONS. Authorizes the board, to fulfill the intent of the Texas Save & Match Program established under Section 54.7521, to establish pilot projects under the program in an effort to incentivize participation in the plan, including projects that encourage participation by awarding additional matching grants based on a beneficiary's achievement of specified academic goals, offering additional seed matching grants on the opening of a savings trust account, and providing incentives for employers to contribute matching funds to the program.

SECTION 4. Amends Subchapter H, Chapter 54, Education Code, by adding Sections [sic] 54.761, as follows:

Sec. 54.761. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. Prohibits money in a beneficiary's savings trust account or matching account from being considered as available to the beneficiary, or otherwise included in the beneficiary's household income or financial resources, for purposes of determining the beneficiary's eligibility for a TEXAS grant or any other state-funded student financial assistance.

SECTION 5. Amends Subchapter H, Education Code, by adding Section 54.762, as follows:

Sec. 54.762. REMITTANCE OF ACTUARIAL SOUNDNESS (OR ENROLLMENT) FEE FOR CERTAIN INDIVIDUALS. Authorizes the board, for beneficiaries deemed eligible under Section 54.7521, to waive the amount of any enrollment fee charged by the board for a new account under this subchapter only for a beneficiary whose household adjusted gross income for the most recently completed tax year is not more than 200 percent of the federal poverty level. Requires that the actuarial soundness fee, if waived for any beneficiary, be remitted to the plan fund through funds collected or appropriated to operate the program.

SECTION 6. Amends Subchapter C, Chapter 62, Health and Safety Code, by adding Section 62.1012, as follows:

Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION UNIT UNDERGRADUATE EDUCATION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits the Health and Human Services Commission, for purposes of determining whether a child meets family income and resource requirements for eligibility for the child health plan, to consider as income or resources a right to assets held in or a right to receive payments or benefits under any fund or plan established under Subchapters F, G, and H, Chapter 54 (Tuition and Fees), Education Code, including an interest in a savings trust account, prepaid tuition contract account, or related matching account.

SECTION 7. Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.0039, as follows:

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION UNIT UNDERGRADUATE EDUCATION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits the Texas Department of Human Services (TDHS), for purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, from considering the right to assets held in or the right to receive payments or benefits under any fund or plan established under Subchapters F, G, and H, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition unit contract account, or related matching account.

SECTION 8. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.02611, as follows:

Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION UNIT UNDERGRADUATE EDUCATION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits TDHS, in determining eligibility and need for medical assistance, to consider as assets or resources a right to assets held in or a right to receive payments or benefits under any fund or plan established under Subchapters G and H, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract account, or related matching account.

SECTION 9. Requires the board to adopt rules as required by Section 54.752. Education Code, as added by this Act, not later than November 1, 2009.

SECTION 10. Provides that the changes in law made by this Act to Subchapter H, Chapter 54, Education Code, apply to a prepaid tuition unit undergraduate contract account opened for a beneficiary under Subchapter H, Chapter 54, Education Code, on or after January 1, 2010.

SECTION 11. Requires the board, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such waivers or authorizations are granted.

SECTION 12. Provides that the changes in law made by this Act apply to a person who receives health benefits coverage under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, financial assistance under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code, or medical assistance under Chapter 32 (Medical Assistance Program), Human Resources Code, on or after the effective date of this Act, regardless of the date on which eligibility for coverage or assistance was initially determined.

SECTION 13. Effective date: September 1, 2009.